

OGC Has Reviewed

Approved For Release 2001/08/27 : CIA-RDP60-00442R000100030025-4

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21 October 1954

MEMORANDUM FOR: C/IO

ATTENTION : [REDACTED] 25X1A9a
FROM : Office of General Counsel
SUBJECT : Dual Compensation of Retired Army Officer

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1. You have discussed with us the case of a retired Army officer presently employed by [REDACTED]. This man, who is receiving retirement pay from the Army, recently received the following inquiry from the Retired Pay Division, U. S. Army:

"In order that your retired pay record is in accord with dual compensation and employment restrictions imposed on persons receiving retired pay for or on account of service as a commissioned officer, and occupying Federal civilian positions, please complete the certificate below and return to this office within 5 days after receipt.

'I certify that I am ____ (insert 'not' if applicable) holding a civilian office or position, appointive or elective, under the U. S. Government or the municipal government of the District of Columbia, or under any corporation, the majority of the stock of which is owned by the United States. I will immediately notify your office of any change of status in this respect.'

Date	Full Signature	Rank	Service No."
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2. This dual compensation problem is part of a larger subject which is very difficult and of considerable concern to the Agency, namely, the applicability to personnel of our proprietary organizations of the laws, rules and regulations concerning Government personnel. We recently discussed this matter with the General Accounting Office and referred particularly to the type of situation which you present. It is not possible at this time to give any flat reassurance on such a situation or to predict accurately how a case would be decided by the General Accounting Office or by the Courts. The individual must, therefore,

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act on his own responsibility and may seek the advice of his legal counsel. Security considerations may, of course, make it necessary for such counsel to be cleared. This office has a list of cleared attorneys who would be available for employment by individuals.

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3. We understand that [REDACTED] the subject of this inquiry, has no contractual relationship with this Agency but is an employee of [REDACTED]. He is not considered by the Agency as a Government employee and does not receive the benefits of Government employment, such as Civil Service Retirement and government insurance. It appears that he has an arguable position for replying to the Army inquiry in the negative. It can be contended that a situation of this nature, arising out of the peculiar necessities and techniques of intelligence operations, is not within the intent of the particular statutory prohibition involved. Consequently, his negative reply to the inquiry would not contain any element of fraud. However, the question of dual compensation could well be raised by the General Accounting Office or the Army in the future, and in the event of a determination unfavorable to [REDACTED] required to refund a substantial sum of money.

4. This whole question is under active study and we hope that policies and procedures will be determined in the near future. In the meantime, each case will have to be considered on its own facts and the individual must act on his own responsibility.

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[REDACTED]
Assistant General Counsel

OGC/RGH:mks

Orig & 1 - Addressee
1 - RGH Chrono.
✓ 1 - Dual Compensation File
1 - OGC 349 [REDACTED]
1 - Chrono.

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